

ELECTION OF SPECIES REQUIREMENT

According to Applicants' understanding of the present Office Action, the Examiner requires that an election of the following species be made:

- (1) carbon chain length of the $C_{12} - C_{40}$ fatty acid (I) recited in claims 19 and 20;
- (2) presence of one or more $C_{12} - C_{40}$ fatty acids (I); if more than one fatty acid is to be present, carbon chain length of each of them;
- (3) carbon chain length of the $C_{12} - C_{40}$ fatty alcohol (II) recited in claims 19 and 20;
- (4) presence of one or more $C_{12} - C_{40}$ fatty alcohols (II); if more than one fatty alcohol is to be present, carbon chain length of each of them;
- (5) polymer (III) recited in claims 19 and 20, i.e., amphiphilic polymer, associative polymer or siloxane elastomer;
- (6) species of the polymer(s) elected according to (5);
- (7) presence of one or more polymers (III); if more than one polymer (III) is to be present, proceed according to (5) and (6) for each of them;

P24855.A04

- (8) presence of NaOH or KOH or both;
- (9) carbon chain length of the C₁₂ – C₄₀ polyethoxylated fatty acid ester (V) recited in claim 19;
- (10) polyethoxy chain length of the C₁₂ – C₄₀ polyethoxylated fatty acid ester (V);
- (11) presence of one or more low molecular weight surfactants (VI) recited in claim 19; if more than one surfactant is to be present, the number thereof;
- (12) presence of one or more of the species recited in claim 56 and type thereof for each of the species present;
- (13) presence of one or more of the species recited in claim 57 and type thereof for each of the species present;
- (14) presence of one or more polar lipids;
- (15) presence of one or more species of solubilizers and type thereof;
- (16) presence of one or more of the species recited in claims 66 and 67 and type thereof ;

(17) presence of ethanol;

(18) type of composition as recited in claims 70-77.

ELECTION

In order to be responsive to the Election of Species Requirement, Applicants elect, with traverse, the following species (the numbering being the same as above):

(1) and (2): stearic acid (C₁₈) and palmitic acid (C₁₆) are to be present;

(3) and (4): behenyl alcohol (C₂₂) and stearyl alcohol (C₁₈) are to be present;

(5) to (7): siloxane elastomer (dimethicone/vinyl dimethicone crosspolymer) and associative polymers (acrylate/steareth-20 methacrylate copolymer and PEG-120 methylglucose dioleate) are to be present;

(8): NaOH is to be present;

(9): stearic acid (C₁₈);

(10): 100 ethyleneoxy units;

(11): laureth-4 is to be present as low molecular weight surfactant;

(12) and (13): a non-polar lipid having a polarity of at least 30 mN/m (cyclomethicone) is to be present;

(14) : no polar lipid is to be present;

(15): no solubilizer is to be present;

(16): photoprotective filter, moisturizer, preservative and filler are to be present;

P24855.A04

(17): ethanol is to be present;

(18) : skin care product.

Currently at least claims 19-57, 59, 60, 66-69, 72 and 73 read on the elected species;

TRAVERSE

Applicants respectfully submit that the election of species requirement is inappropriate in this case. Even if one were to assume, *arguendo*, that the present claims encompass a large number of species, the election of species requirement should be withdrawn because there is no serious burden.

Merely by way of example, for search and examination purposes it does not make any significant difference whether the compositions recited in present claims 19 and 20 comprise one or more species of a particular component (I) to (VI) and what the exact number of carbon atoms in the species is.

It also is apparent in Applicants' opinion that it does not make any significant difference for search and examination purposes if the composition contains sodium hydroxide or potassium hydroxide or both.

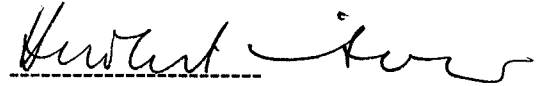
Also, in view of the significant number of components that are recited in the present independent claims the presence of any of the optional components recited in some of the dependent claims is of no significance for search and examination purposes, either.

In other words, it is to be expected that the search for the elected species and a search for the non-elected species would significantly overlap. For this reason alone, the Election of Species Requirement is inappropriate and should be withdrawn, which action is respectfully requested.

P24855.A04

Should there be any questions, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
Silke KOHLHASE et al.

A handwritten signature in black ink, appearing to read "Neil F. Greenblum", written over a horizontal dashed line.

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